



United States Government

NATIONAL LABOR RELATIONS BOARD

Region 3

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June 23, 2004

Jeffrey L. Panoushek
180 Oatman Lane
Granville, NY 12832

**Re: DLV, Inc.
Case 3-RD-1418**

Dear Mr. Panoushek:

The above-captioned case, petitioning for investigation and determination of representative under Section 9(c) of the National Labor Relations Act, has been carefully investigated and considered. As a result of the investigation, it appears that by reason of my approval of settlement agreements on October 8, 2002 in Cases 3-CA-23678-3, 3-CA-23678-4, and 3-CA-23678-5, and in view of the Board's Order dated March 15, 2004 in Case 3-CB-7986, certain of the remedies that were provided for preclude the existence of a question concerning representation sought to be raised by the filing of the instant petition.

Particularly, the settlement agreements in the cases cited above provide that the Charged Parties recognize the Empire State Regional Council of Carpenters, herein the Union, as the exclusive collective-bargaining representative of the employees involved in this petition and will withdraw recognition from Builders, Woodworkers & Millwrights Local Union No. 1; will execute the memorandum of understanding negotiated between the Glens Falls Contractors Association, Inc. and the Union; and honor and give retroactive effect from June 1, 2002, to the terms of the memorandum of understanding, including the terms requiring the Charged Parties to pay wage rates, to provide fringe benefit contributions, and deduct and remit dues to the Union. Further, the settlement agreements provide that the Charged Parties will not maintain, enforce, or give effect to the collective-bargaining agreement effective June 1, 2002, that the Charged Parties entered into with Local 1 and that the Charged Parties will not require employees, as a condition of employment, to become or remain members of Local 1.

Moreover, the Board's Order dated March 15, 2004 in Case 3-CB-7986 provides that Local 1 will not act as the exclusive collective-bargaining representative of employees employed by DLV, Inc., Pinchook & Buckley Construction, Inc., and Adirondack Mechanical Services, LLC who are already represented for purpose of collective-bargaining by the Union, or maintain, enforce, or give effect to the collective-bargaining agreement into which it entered with the Glens Falls Contractors Association, Inc., unless and until Local 1 is certified by the Board pursuant to a Board-conducted representation election. Lastly, the Board's Order prohibits Local 1 from requiring employees of DLV, Inc., Pinchook & Buckley Construction, Inc., and Adirondack Mechanical Services, LLC, as a condition of employment, to become or remain members of Local 1 unless and until it is certified by the Board pursuant to a Board-conducted representation election.

In view of the foregoing, further proceedings are not warranted at this time and I am, therefore, dismissing the petition. See *Douglas-Randall, Inc.*, 320 NLRB 431 (1995); *Freedom WLNE-TV*, 295 NLRB 634 (1989).

Pursuant to the National Labor Relations Board's Rules and Regulations, any party may obtain a review of this action by filing a request therefore with the National Labor Relations Board, Washington, D.C. 20570. A copy of the request for review must be served on each of the other parties to the proceeding, as well as on the undersigned. This request for review must contain a complete statement setting forth the facts and reasons on which it is based. The request for review (eight copies) must be received by the Executive Secretary of the Board by close of business (14 days from date of letter). Upon good cause shown, however, the Board may grant special permission for a longer period within which to file. A request for extension of time should be submitted to the Executive Secretary in Washington, and a copy of any such request for extension of time should be submitted to this Office and to each of the other parties to this proceeding.

The request for review and any request for extension of time must include a statement that a copy has been served on this Office and on each of the other parties to this proceeding in the same or a faster manner as that utilized in filing the request with the Board.

Your Right to Obtain a Review of Dismissal Action: Pursuant to the National Labor Relations Board's Rules and Regulations, any party may obtain a review of this action by filing a request for review with the National Labor Relations Board, 1099 14th Street, NW, Washington, DC 20570. If you file a request for review, you must also send a copy to the other parties to this proceeding and to me.

Request for Review Due Date: The request for review must be received by the Executive Secretary for the Board by the close of business at 5:00 p.m. [EST or EDT, as appropriate] on **July 7, 2004**. However, if you mail the request for review, it will be considered timely if it is postmarked no later than the day before the due date.

Extension of Time to File Request for Review: Upon good cause, the Board may grant special permission for a longer period within which to file a request for review. If you file a request for extension of time with the Executive Secretary in Washington, you must send a copy of your request to the other parties to this proceeding and to me.

Request for Review Contents: The request for review must contain a complete statement setting forth the facts and the reasons that support your request for review of the decision to dismiss the petition. The request for review and any request for extension of time must include a statement that a copy has been served on the other parties to this proceeding and on me and that service has been accomplished in the same or faster manner as that used to serve the Board.

Sincerely,

RHONDA P. ALIOUAT
Acting Regional Director

RPA:lm

cc: Executive Secretary,
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